

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

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DANNY MANZANARES,

Plaintiff,

vs.

Civil No. 04-270 WJ/WDS

CITY OF ALBUQUERQUE, et al.,

Defendants.

**ORDER LIFTING STAY AND**  
**DISMISSING CASE WITH PREJUDICE**

THIS MATTER comes before the Court *sua sponte* in light of the Judgment entered in the companion case, Manazanares v. Higdon, Civil No. 05-95 WJ/LFG. The instant case was filed March 10, 2004 naming as Defendants the City of Albuquerque and a John Doe officer of the Albuquerque Police Department. On January 27, 2005, Plaintiff filed, by separate Complaint in a separate case, claims against Officer Sean Higdon of the Albuquerque Police Department. The Complaint naming Officer Higdon was identical in all material respects to the Complaint filed in this case; thus it was apparent that Officer Higdon was the fictitious Doe named in the instant case. On April 5, 2005, the parties moved jointly to stay proceedings in this case pending the outcome in Manzanares v. Higdon, Civil No. 05-95 WJ/LFG, and by Order filed April 7, 2005 (Doc. 47), the Court ordered this case stayed.

The Companion case against Officer Higdon went to trial before a jury, and on March 14, 2007 the jury returned a verdict in favor of Officer Higdon finding that he had not violated


Plaintiff's constitutional rights. On May 14, 2007, I entered judgment in favor of Officer Higdon in Manzanares v. Higdon, Civil No. 05-95 WJ/LFG.

The stay in the instant case having been entered pending the outcome of the companion case, and the companion case having now been terminated, the stay in this case is hereby lifted. A municipality may not be held liable where there is no underlying constitutional violation by any of its officers. Hinton v. City of Elwood, Kan., 997 F.2d 774, 782 (10th Cir. 1993); Apodaca v. Rio Arriba County Sheriff's Dept., 905 F.2d 1445, 1447 (10th Cir. 1990) (citing City of Los Angeles v. Heller, 475 U.S. 796, 799 (1986)). Because the jury found that Officer Higdon did not violate Plaintiff's constitutional rights, there is no basis for municipal liability in this case. Accordingly, the City of Albuquerque is entitled to have the claims against it dismissed with prejudice.

#### CONCLUSION

IT IS THEREFORE ORDERED that the stay in this case is hereby lifted.

IT IS FURTHER ORDERED that this case is hereby DISMISSED WITH PREJUDICE.

  
UNITED STATES DISTRICT JUDGE